

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 CARL J. KUNASEK

Chairman

3 JIM IRVIN

Commissioner

4 WILLIAM A. MUNDELL

Commissioner

5 In the matter of:

) Docket No. S-03424A-00-0000

6 GLOBAL HARVEST CORP.

An Arizona corporation

8 4800 N. Scottsdale Rd., Suite 2600

Scottsdale, AZ 85251

) **TEMPORARY ORDER TO CEASE AND
DESIST AND NOTICE OF
OPPORTUNITY FOR HEARING**

9 DAVID PATTEN

10 An individual

7333 E. Chaparral Rd.

11 Scottsdale, AZ 85250

12 ALBERT TABAH

13 An individual

6915 E. Orange Blossom Lane

14 Scottsdale, AZ 85253,

15 Respondents.

16 **NOTICE: THIS ORDER IS EFFECTIVE IMMEDIATELY**

17 **EACH RESPONDENT HAS 20 DAYS TO REQUEST A HEARING**

18 The Securities Division ("Division") of the Arizona Corporation Commission
19 ("Commission") alleges that GLOBAL HARVEST CORP., DAVID PATTEN and ALBERT
20 TABAH engaged in or are about to engage in acts and practices that constitute violations of
21 A.R.S. § 44-1801, *et seq.*, the Arizona Securities Act ("Securities Act"), and that the public welfare
22 requires immediate action.
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I.

JURISDICTION

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

II.

RESPONDENTS

2. Global Harvest Corp. ("GHC"), is an Arizona corporation, located at 4800 N. Scottsdale, Rd., Suite 2600, Scottsdale Arizona 85251.

3. David Patten ("PATTEN") is president of GHC and resides at 7333 E. Chaparral Rd., Scottsdale, AZ 85250.

4. Albert Tabah ("TABAH") is employed by GHC and resides at 6915 E. Orange Blossom Lane, Scottsdale, AZ 85253.

5. The respondents may be collectively referred to as "RESPONDENTS."

III.

FACTS

6. RESPONDENTS have engaged in the offer or sale within or from Arizona of securities in the form of commodity investment contracts to the general public.

7. In April 2000, representatives of GHC contacted the Division regarding their alleged desire to become licensed with the Commission in order to offer foreign exchange currency trading accounts to the public. On April 26, 2000, GHC and its legal counsel met with the Division at the Division's offices. Among the representatives of GHC at the meeting was PATTEN. At the meeting, GHC acknowledged that it had reviewed the decision of the Commission in *In re Forex Investment Services Corp.*, Docket No. S-03177A-98-0000, Decision No. 62403, in which a foreign currency trading firm was sanctioned for, among other things, selling unregistered securities. GHC expressed to the Division its desire to properly register its forex investments.

1 8. After the meeting, on May 5, 2000, GHC's counsel wrote to the Division stating
2 that GHC had not offered or sold foreign currency in Arizona and was not pursuing clients. GHC's
3 counsel also stated that the company was owned entirely by Great Capitol Group, Ltd., a British
4 Virgin Islands' corporation. GHC's counsel further assured the Division that GHC "will not open
5 its doors until they are given approval by the Arizona Corporation Commission." Soon thereafter,
6 GHC ceased providing any further information to the Division.

7 9. In or about June 2000, GHC ran an advertisement in the Arizona Business Gazette,
8 a weekly newspaper of general circulation, based in Phoenix, Arizona. The advertisement ran for
9 several weeks. The advertisement stated:

10 Do you have all your eggs in one basket? Are you tired of your brokerage firm?
11 Here is your chance to learn technical analysis and use your knowledge to trade
12 your own FOREX (Foreign Exchange) and short-term stocks investment.
13 GLOBAL HARVEST Corp. is offering specialized workshops to successfully
14 self-trade FOREX and Stocks. Hands-on experience. Live market trading. For
15 further information and registration, please contact Albert Tabah PHONE: 480-
16 425-2010, GLOBAL HARVEST CORP., Finova Corporate Center, 4800 N.
17 Scottsdale Road, Suite 2600, Scottsdale, AZ 85251.

18 10. In July 2000, an Arizona investor called the number that was advertised and talked
19 with TABAH. The investor later met with TABAH in August 2000. At the meeting, TABAH
20 stated that GHC was a forex company based in Hong Kong. TABAH said that GHC had been in
21 business for a number of years in Asia and the United States. He said the company did actual forex
22 trading, rather than just train people to trade forex by themselves.

23 11. TABAH described the forex investments as being high risk but with a high reward.
24 He said that PAtten, the president and part-owner of GHC, earns 33% per annum on his accounts.
25 TABAH said that a trader, such as himself, would do the forex trading for the investor. The
26 trading would be short term, with the trades normally closed out within an hour of being opened.
All the trading would be done through Macau.

12. TABAH said that the minimum investment was \$20,000. He said that he would be the personal trader for the investor. He said that if the investor brought in other investors, the investor would earn money off those accounts. TABAH also told the investor that if the investor kept his or her money offshore in Macau, he could avoid paying income taxes on any profits.

13. TABAH said that GHC did not need a license to trade in forex.

14. Later in August, the investor met with PATTEN and TABAH. PATTEN described GHC as mostly his company. He said that GHC was currently taking accounts. He said large marketing seminars and a public campaign would occur very soon.

15. PATTEN said that the trading was high risk with high rewards. He said that profit comes naturally to forex trading; the job is to control risks. PATTEN told the investor that trading would be done conservatively. He said that in his trading he had made over 100% gain in six months. PATTEN said that there were currently 15 marketers and traders at GHC.

16. GHC told the investor that it would like the investor to open an account to trade in the forex market with it. GHC told the investor that other investors had opened accounts with it.

IV.

VIOLATION OF A.R.S. § 44-1841

(Offer and Sale of Unregistered Securities)

17. From on or about June 1, 2000, RESPONDENTS offered or sold securities in the form of investment contracts or commodity investment contracts, within or from Arizona.

18. The securities referred to above were not registered pursuant to Articles 6 or 7 of the Securities Act.

19. This conduct violates A.R.S. § 44-1841.

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V.

VIOLATION OF A.R.S. § 44-1842

(Transactions by Unregistered Dealers or Salesmen)

20. RESPONDENTS offered or sold securities within or from Arizona while not registered as dealers or salesmen pursuant to Article 9 of the Securities Act.

21. This conduct violates A.R.S. § 44-1842.

VI.

VIOLATION OF A.R.S. § 44-1991

(Fraud in Connection with the Offer or Sale of Securities)

22. In connection with the offer or sale of securities within or from Arizona, RESPONDENTS directly or indirectly: (i) employed a device, scheme or artifice to defraud; (ii) made untrue statements of material fact or omitted to state material facts which were necessary in order to make the statements made not misleading in light of the circumstances under which they were made; or (iii) engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon offerees and investors. RESPONDENTS' conduct includes, but is not limited to, the following:

a) Stating that GHC and its employees did not need a license in order to conduct forex trading on behalf of Arizona investors;

b) Failing to inform the investor that it had met with the Division and was told by the Division that it needed to be licensed under the Securities Act;

c) Failing to inform the investor that it had told the Division that it would not open its doors until approved by the Division; and

d) Failing to disclose it in an Arizona Business Gazette advertisement that it was not licensed to trade stocks or forex accounts.

23. This conduct violates A.R.S. § 44-1991.

VII.

TEMPORARY ORDER

Cease and Desist from Violating the Securities Act

THEREFORE, based on the above allegations, and because the Division has determined that the public welfare requires immediate action,

IT IS ORDERED, pursuant to A.R.S. §§ 44-2032, 44-1972 and A.A.C. R14-4-307, that the RESPONDENTS, their agents, servants, employees, successors, assigns, and those persons in active concert or participation with them CEASE AND DESIST from violating the Securities Act.

IT IS FURTHER ORDERED that this Temporary Order to Cease and Desist shall remain in effect for 120 days unless sooner vacated, modified or made permanent by the Commission.

IT IS FURTHER ORDERED that this Order shall be effective immediately.

VIII.

REQUESTED RELIEF

The Division will request that the Commission grant the following relief against RESPONDENTS:

1. Order RESPONDENTS to permanently cease and desist from violating the Securities Act, pursuant to A.R.S. § 44-2032;
2. Order RESPONDENTS to take affirmative action to correct the conditions resulting from their acts, practices or transactions, including a requirement to make restitution pursuant to A.R.S. § 44-2032;
3. Order RESPONDENTS to pay the state of Arizona administrative penalties of up to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;
4. Order any other relief that the Commission deems appropriate.

IX.**HEARING OPPORTUNITY**

RESPONDENTS may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. Rule 14-4-307. A request for hearing must be in writing and received by the Commission within 20 days after service of this Temporary Order to Cease and Desist. Each RESPONDENT must deliver or mail the request for hearing to Docket Control, Arizona Corporation Commission, 1200 West Washington, Phoenix, Arizona 85007. A Docket Control cover sheet must also be filed with the request for hearing. A cover sheet form and instructions may be obtained from Docket Control at (602) 542-3477 or on the Commission's Internet web site at www.cc.state.az.us/utility/forms/index.htm.

If a request for hearing is timely made, the Commission shall schedule a hearing to begin 5 to 15 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. After a hearing, the Commission may vacate, modify or make permanent this Temporary Order, with written findings of fact and conclusions of law. A permanent Order may include ordering restitution, assessing administrative penalties or other relief.

If a request for hearing is not timely made, the Division will request that the Commission make permanent this Temporary Order, with written findings of fact and conclusions of law, which may include ordering restitution, assessing administrative penalties or other relief.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Cynthia Mercurio-Sandoval, ADA Coordinator, voice phone number 602/542-0838, e-mail

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1 csandoval@cc.state.az.us. Requests should be made as early as possible to allow time to arrange
2 the accommodation.

3 BY ORDER OF THE ARIZONA CORPORATION COMMISSION, this 7th day of
4 September, 2000.

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6 Mark Sendrow
7 Director of Securities
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